

REMARKS

Claims 1-9 are pending. Applicants elect with traverse Group I (claims 1-7) for examination on the merits. Applicants reserve the right to prosecute nonelected subject matter in a further patent application.

Notwithstanding the above election, reconsideration of the restriction requirement is requested because examination of all pending claims would not constitute a serious burden. In particular, the claims of both Groups I and II should be examined in the same application. Thus, claim 9 should not be withdrawn from consideration.

In the alternative, Applicants disagree with the allegation in the Action that the pending claims lack unity of invention, and therefore belong to different groups of inventions. Although they agree with the Examiner's conclusion that the inventions are separately patentable, Applicants' traversal is based on the pending claims being so linked as to form a single general inventive concept under PCT Rule 13.1. Therefore, Applicants submit that the pending claims should be examined together in this application.

Applicants submit that, pursuant to the *Manual of Patent Examining Procedure* (M.P.E.P.), the claims identified by the Examiner as Groups I and II are linked to form a single general inventive concept. In particular, the Examiner's attention is directed to M.P.E.P. § 1850 III A Combinations of Different Categories of Claims (8th Ed., Rev. 5, August 2006), which states at 1800-96 to 1800-97:

The method for determining unity of invention under Rule 13 PCT shall be construed as permitting, in particular, the inclusion of any one of the following combinations of claims of different categories in the same international application:

(A) In addition to an independent claim for a given product, an independent claim for a process specially adapted for the manufacture of the said product, and an independent claim for a use of the said product . . .

[A] process shall be considered to be specially adapted for the manufacture of a product if the claimed process inherently results in the claimed product with the technical relationship being present between the claimed product and claimed process. The words "specially adapted" are not intended to imply that the product could not also be manufactured by a different process.

Upon an indication that claims to the elected product claims are allowable, Applicants submit that claims directed to the nonelected method claims would then have to

be searched and examined. The delay in the search and examination of claim 9 would not result in compact prosecution and is not in the public interest.

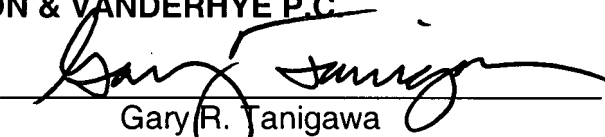
Furthermore, under the Commissioner's Notice of March 26, 1996 (1184 OG 86) implementing the Federal Circuit's decisions of *In re Ochiai*, 37 USPQ2d 1127 (1995) and *In re Brouwer*, 37 USPQ2d 1663 (1996), Applicants request rejoinder of nonelected method claims upon an indication that an elected product claim is allowable.

Applicants earnestly solicit an early and favorable examination on the merits. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

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